THE BOMBAY HEREDITARY OFFICES ACT, 1874.

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BOMBAY ACT No. III OF 1874.[1]

[THE BOMBAY HEREDITARY OFFICES ACT, 1874.]

[*5th February 1875.*]

Repealed in part, by Act 12 of 1876;
" " " by Bom. 3 of 1886.
" " " and amended by—
Act 16 of 1895;
Bom. 5 of 1886;
" 3 of 1910.
Repealed in part, amended and supplemented (locally), by—
Bom. 6 of 1887.

Amended by Bom. 3 of 1915;
" " " 11 of 1925;
" " " 11 of 1930;
" " " 15 of 1931;
" " " 12 of 1932.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
" " " by the Adaptation of Laws Order, 1950.
Amended by Bom. 28 of 1950.

An Act to amend the Law relating to Hereditary Offices.

WHEREAS it is expedient to declare and amend the law relating to Hereditary Offices; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Bombay Hereditary Offices Act. Short title.

It extends to the Regulation Districts and to all villages therein, whether alienated or otherwise, so far as its provisions shall not conflict with the terms, on which any such alienated village may have been secured to the holder thereof.

Nothing in this Act shall affect the powers of [2][the [3][State] Government] to deal with any watan or parts of watans, or with the profits thereof respectively under [4]Act No. XI of 1852, or Bombay Acts Nos. II and VII of 1863, or any other law at present in force with respect thereto.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1873, Pt. V, and pp. 207 and 309, for Proceedings in Council, *see ibid*, pp. 439, 443 and 462, *ibid*, 1874, pp. 135, 148, 156 and 162.

As to the application of Bom. 3 of 1874 as amended by Bom. 5 of 1886, to Matadars in the districts of Ahmedabad, Kaira, Broach and Surat, and in villages in the Panch Mahals District to which Bom. 6 of 1887, *infra*, is extended—*see* the Matadars Act, 1887 (Bom. 6 of 1887), ss. 1 and 2, *infra*.

Subject to modifications and repeals, Bom. 6 of 1887 is to be read as one with this Act—*see* Bom. 6 of 1887, s. 4. For further modifications, *see* ss. 5 *et seq.* of the latter Act.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The Bombay Rent-free Estates Act, 1852

2. [*Repeal of enactments.*] *Rep. Act XII of 1876.*

Application of parts VI, VII, VIII and IX.

3. Parts VI, VII, VIII and IX [1]* * * shall not apply to hereditary offices of lower degree than Patel or Kulkarni, nor to watans appertaining to such offices.

Interpretation clause.

4. In this Act, unless there be something repugnant in the subject or context—

"Watan property" means the moveable or immovable property held, acquired, or assigned for providing remuneration for the performance of the duty appertaining to an hereditary office. It includes a right to levy customary fees or perquisites, in money or in kind, whether at fixed times or otherwise.

It includes cash payments in addition to the original watan property made voluntarily by [2][the [3][State] Government] and subject periodically to modification or withdrawal.

"Hereditary Office" means every office held hereditarily for the performance of duties connected with the administration or collection of the public revenue or with the village police, or with the settlement of boundaries, or other matters of civil administration. The expression includes such office even where the services originally appertaining to it have ceased to be demanded.

The watan property, if any, and the hereditary office and the rights and privileges attached to them together constitute the watan.

"Watandar" means a person having an hereditary interest in a watan. It includes a person holding watan property acquired by him before the introduction of the British Government into the locality of the watan, or legally acquired subsequent to such introduction, and a person holding such property from him by inheritance. It includes a person adopted by an owner of a watan or part of a watan, subject to the conditions specified in sections 33 to 35 [1]* * *

"Family" includes each of the branches of the family descended from an original watandar: Provided that no sub-division shall be recognised except as hereinafter provided in section 26.

"Head of a family" includes the chief representative of each branch of a family.

"Representative watandar" means a watandar registered by the Collector under section 25 [1]* * * as having a right to perform the duties of an hereditary office.

"Officiator" means the person actually performing the duties of an hereditary office for the time being, whether he be a representative watandar or a deputy or a substitute appointed under any of the provisions [4][of this Act].

"Guardian" means a relation or other person to whom the care, nurture, or custody of any child falls by natural right or recognized usage, or who has accepted or assumed directly the care, nurture, or custody of any child, or in case of dispute the holder of a certificate of guardianship from a competent court.

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. I of 1904).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), and re-inserted by the Amending Act, 1895 (16 of 1895).

PART II.

WATAN PROPERTY AND PROFITS THEREOF.

Prohibition of alienation of watan and watan rights.

[1][5. (*1*) Without the sanction of [2][the [3][State] Government], [4]* * * it shall not be competent—

(*a*) to a watandar to mortgage, charge, alienate or lease, for a period beyond the term of his natural life, any watan, or any part thereof, or any interest therein, to or for the benefit of any person who is not a watandar of the same watan;

(*b*) to a representative watandar to mortgage, charge, lease or alienate any right with which he is invested, as such, under this Act.

(*2*) In the case of any watan in respect of which a service commutation settlement has been effected, either under section 15 or before that section came into force, clause (*a*) of this section shall apply to such watan, unless the right of alienating the watan without the sanction of [2][the [3][State] Government] is conferred upon the watandars by the terms of such settlement or has been acquired by them under the said terms.]

Collector may institute legal proceedings for the protection of a watan.

6. (*1*) In any case in which it shall appear to the Collector that the institution of legal proceedings is requisite or desirable with respect to any watan, or the estate, property, funds or affairs thereof, the Collector shall certify such case in writing under his hand to the [5]* * * [6][State Government], together with such statements and particulars as in his opinion may be requisite or proper for the explanation of such case; and thereupon the [6][State Government], if upon consideration of the circumstances [7][it] thinks fit, shall authorize the Collector to institute and prosecute in the name of the Collector such legal proceedings as may appear requisite or proper for the protection of the watan, its estates, property, funds or affairs, by suit or petition in any Civil Court having jurisdiction in the matter. The cost of such proceedings, unless recovered from the opposite party, shall be paid out of the funds of the watan.

Collector may proceed under sections 8 to 11, or 13.

(*2*) The Collector may, if he thinks fit, proceed as provided in sections 8, 9, 10, 11 or 13 [8]* * * in lieu of instituting or prosecuting legal proceedings under this section.

Watan assigned as remuneration not alienable without sanction.

7. Watan property assigned under section 23 [5]* * * as remuneratoin of an officiator, and the profits of watan property so assigned, shall not be alienated or assigned to any person whatever without the sanction of [2][the [3][State] Government].

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[1] Section 5 was substituted by s. 1, Bom. 5 of 1886. As to postponement of female members, and as to interest of widow *see ibid*, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "or in the case of a mortgage, charge, alienation, or lease of not more than thirty years of the Commissioner" were deleted by Bom. 28 of 1950, Sch.

[5] The word "Revenue" was repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[6] These words were substituted for the words "Commissioner" and "said Commissioner" by Bom. 28 of 1950, Sch.

[7] This word was substituted for the word "he", *ibid.*

[8] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom, 3 of 1886).

Watan property passed into possession of person other than officiator liable to contribution for remuneration of officiator.

8. Whenever any watan, or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have before the date of this Act coming into force passed by virtue of, or in execution of, a decree or order of any [1][Court] into the ownership or beneficial possession of any person other than the officiator for the time being, or has or have before such date passed otherwise than by virtue of, or in execution of, a decree or order of any [1][Court] into the ownership or beneficial possesssion of a watandar other than such officiator; or

when any watan, or part or profits thereof, not being assigned as remuneration of an officiator has, after the date of this Act coming into force, passed by virtue of, or in execution of, a decree or order of any [1][Court] or otherwise, into the ownership or beneficial possession of a watandar other than such officiator;

such watan, or any part thereof, or any of the profits thereof, shall be liable under the orders of the Collector to contribution for the remuneration of such officiator in like manner and to the like extent as if no such decree had been passed or no such transfer had taken place.

Collector may declare alienation of watan property to be under certain circumstances null and void

9. (*1*) Whenever any watan or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have, before the the date of this Act coming into force, passed otherwise than by virtue of, or in execution of, a decree or order of any British Court and without the consent of the Collector and transfer of ownership in the Revenue records, into the ownership or beneficial possession of any person not a watandar of the same watan, the Collector may, after recording his reasons in writing, declare such alienation to be null and void, and order that such watan, or any part thereof, or any of the profits thereof, shall from the date of such order belong to the watandar previously entitled thereto, and may recover and pay to such watandar any profits thereof accordingly.

Collector may in the case of land recover full rent.

(*2*) If such part of a watan be land, it shall be lawful for the Collector, instead of transferring the possession of the land, to demand and recover the full rent ordinarily paid by tenants of land of similar description in the same locality, and the amount so recovered shall be considered as the profits. The decision of the Collector as to what is the full rent shall be final.

Civil Court on receipt of Collector's certificate, to remove attachment on watan property assigned as remuneration of officiator.

10. When it shall appear to the Collector that by virtue of, or in execution of, a decree or order of any [1][Court] any watan or any part thereof, or any of the profits thereof, recorded as such in the Revenue records or registered under this Act, and assigned under section 23 [2]* * * as remuneration of an officiator, has or have, after the date [3][of this Act] coming into force, passed or may pass without the sanction of [4][the [5][State] Government] into the ownership or beneficial possession of any person other than the officiator for the time being; or that any such watan, or any part thereof or any of the profits thereof, not so assigned has or have so passed [6][or may pass] into the ownership or beneficial possession of any person not a watandar of the same watan, the Court

[1] This word was substituted for the words "British Court" by the Adaptation of Laws Order, 1950.

[2] The words "of this Act" were repealed by the General Clauses Act, 1886 (Bom. 3 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[3] These words were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), and re-inserted by the Amending Act, 1895 (16 of 1895).

[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] These words were inserted by the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom. 5 of 1886).

shall, on receipt of a certificate under the hand and seal of the Collector, stating that the property to which the decree or order relates is a watan or part of a watan, or that such property constitutes the profits or part of the profits of a watan, or is assigned as the remuneration of an officiator, and is therefore inalienable, remove any attachment or other process then pending against the said watan, or any part thereof, or any of the profits thereof, and set aside any sale or order of sale or transfer thereof, and shall cancel the decree or order complained of so far as it concerns the said watan, or any part thereof or any of the profits thereof.

Collector shall declare null and void alienation of watan property made after passing of Act.

11. When any alienation of the nature described in section 10 [1]* * * shall take place otherwise than by virtue of, or in execution of a decree or order of any [2][Court], the Collector shall, after recording his reasons in writing, declare such alienation to be null and void, [3]* * * * * *

Resumption of property to which an order made under section 10 or section 11 applies.

[4][**11A.** The Collector shall either summarily resume possession of all property to which an order of a Court passed on receipt of his certificate under section 10, or his own declaration under section 11, relates. or assess it at the rate prescribed in clause 2 of section 9, as he may think fit, and the said property shall thenceforward revert to the watan.]

Powers of Collector to carry out provisions of sections 8, 9 and 11.

12. It shall be lawful for the Collector whenever it may be necessary, in carrying out the provisions of sections 8, 9 and 11 [1]* * *

(*a*) to summarily evict any person wrongfully in possession of any land, or

(*b*) to levy any rent due by any person in the manner that may be prescribed in any law for the time being in force for the levy of a revenue demand.

Watan assigned as remuneration not liable to process of Court.

13. Watan property assigned as remuneration of an officiator under section 23 [1]* * * and the profits of such watan property are not liable to process of any Civil Court.

On receipt of a certificate under the hand and seal of a Collector to the effect that certain property designated therein is watan property so assigned, the Court shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such property or the profits thereof.

Combination of hereditary offices.

14. (*1*) It shall be lawful for a Collector for reasons to be stated in writing, to combine two or more watans held for the performance of similar services in the same village or parts of the same village.

(*2*) [*Validation of prior combinations.*] *Rep. Act XVI of 1895.*

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[1] The words " of this Act " were repealed by the General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[2] This word was substituted for the words " British Court " by the Adaptation of Laws Order, 1950.

[3] The words " and shall either summarily resume possession of such property or assess it at the rate prescribed in section 9, clause 2, of this Act, as he may think fit, and it shall thenceforward revert to the watan " were repealed by s. 4, Bom. 5 of 1886.

[4] S. 11A was inserted by Bom. 5 of 1886.

PART III.

COMMUTATION OF WATANS.

Commutation of service.

15. (*1*) The Collector may, with the consent of the holder of a watan, given in writing, relieve him and his heirs and successors in perpetuity of their liability to perform service upon such conditions, whether consistent with the provisions of this Act or not, as may be agreed upon by the Collector and such holder.

(*2*) [*Validation of prior settlements.*] *Rep. Act XVI of 1895.*

Settlement on whom to be binding.

(*3*) Every settlement made or confirmed under this section shall be binding upon both [1][the [2][State] Government] and the holder of the watan and his heirs and successors.

Who is a "holder".

(*4*) The word "holder" for the purposes of this section includes any sole owner or the whole number of joint owners or any person dealt with as representative of the persons beneficially interested or entered as such in the Government records at the time of the settlement.

Rights of individuals to exact customary service from village servants not affected.

16. Nothing in the last preceding section shall be held to affect any rights of individuals or village communities to exact such service as may be customary from village servants whose watans were originally granted or are now held for the performance of such service, but who have been relieved by [1][the [2][State] Government] of liability to perform such service to the State.

Assessment of amount of payments in alienated villages.

17. When all or any of the property of a watan consist of payments of whatever description, whether in money or kind, made by Jaghirdars, Inamdars, Mehwassi Chiefs, or others owning or occupying immovable property wholly or partially free from assessment, the Collector may from time to time determine the amount of such payments recoverable; provided that no larger demand shall be made than one equivalent to the amount that would be payable under the scale in force for the time being in the case of Government villages.

Appointment of Panchayat to define rights and duties of certain classes of watandars.

18. When all or any of the property of a village watan of lower degree than that of Patel or Kulkarni consists of a right to levy in money or kind directly from individuals, it shall be lawful for the Collector, on the application of any person interested, to cause the nature and extent of such right and of the duties to be performed, and the persons, families, or classes liable to make payment and to perform the duties, to be defined in writing by a panchayat of five persons, whereof two shall be appointed by the villagers, two by the watandars, and one, who shall be sar-panch by the Collector. The decision shall be in accordance with the opinion of the majority of the panchayat, provided that in case the villagers or the watandars fail to nominate members within seven days, the Collector shall appoint such members as may be required to constitute a panchayat of five:

Provided also that, in case the panchayat do not come to a decision within seven days from the appointment of the sar-panch, the Collector may himself pass a decision.

The decision of the panchayat or of the Collector, as above provided, shall be final and binding on all persons or classes whose rights, duties or liabilities have been submitted to such decision.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order 1950.

19. Whenever, on failure of the panchayat to come to a decision, the Collector, acting under the last preceding section, passes a decision, and it appears that the profits of the watan or part thereof are of fluctuating amount, or are payable in kind, it shall be lawful for the Collector to determine the amount payable and to decide whether the payment shall be made in kind or money. Mode of fixing amount payable when profits of a watan fluctuate.

20. Any settlement of the nature described in section 17, 18 or 19 [1]* * * made before the date of this Act coming into force, by a Collector or other officer duly authorised by [2][the [3][State] Government], shall have the same force as if made under this Act. Validity of settlements made prior to passing of Act.

21. Settlements of the nature described in sections 17, 18 and 19 [1]* * made after this Act comes into force, shall be made for such periods as the [4][[3][State] Government] may from time to time direct. Settlements for such period as [3][State] Government may direct.

PART IV.

Creation and Lapse of Watans.

22. When no watan exists, it shall be lawful for [2][the [3][State] Government] to create one, and in so doing to assign, subject to such sanction as may be required by any law, [5]* * * * * for the time being in force, such [6][property vested in [7][the State Government]] as to [2][the [3][State] Government] may seem fit. Creation of new watans.

Such watan shall be subject to all the provisions of this Act, and the watandars shall exercise the powers and perform the duties conferred and imposed by this Act or any other law for the time being in force.

When a watan, or part of a watan, has lapsed or has been confiscated or otherwise lawfully resumed by [2][the [3][State] Government], or when the right of any particular family to hold a watan does not exist or is not established, it shall be lawful for [2][the [3][State] Government], subject to the sanction mentioned in the first clause of this section, to assign such watan, or part of a watan, to such person or persons as to [2][the [3][State] Government] may seem fit.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886, Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "Provincial Government" were substituted for the words "Governor in Council". by the Adaptation of Indian Laws Order in Council.

[5] The words "or order of the Governor General of India in Council" were omitted, *ibid.*

[6] The words "property vested in the Crown for the purposes of the Province" were substituted for the words "property of Government" *ibid.*

[7] These words were substituted for the words "thrown for the purposes of the Province" by the Adaptation of Laws Order, 1950.

PART V.

REMUNERATION OF OFFICIATORS.

Collector to fix emoluments of officiators.

23. Subject to the provisions of this Act and of any other law for the time being in force regarding Service Inams, Cash allowances and Pensions, it shall be the duty of the Collector to fix the annual emoluments of officiators appointed under the provisions of this Act, and to direct the payment thereof to the officiators for the time being.

Collector may assign watan property for the purpose.

It shall be lawful for the Collector for this purpose to assign watan property, or the profits thereof, towards the emoluments of officiators. The existing assignments shall, until altered by competent authority, be taken to have been made under this section. With the sanction of [1][the [2][State] Government] the Collector may, as occasion arises, alter the assignment and may increase or diminish it in value, such increase or diminution being made rateably among the holders in proportion to the profit derived by such holders respectively from the watan.

PART VI.

REPRESENTATIVE WATANDARS.

Duties of office to be performed by representative watandars.

[3]**24.** The duties appertaining to any hereditary office shall be performed by the representative watandars or by deputies or substitutes as hereinafter provided, and by no other persons.

Determination and registration of representative watandars.

[3]**25.** It shall be the duty of the Collector to determine, as hereinafter provided, the custom of the watan as to service and what persons shall be recognized as representative watandars for the purpose of this Act, and to register their names.

Previous practice to be considered in determining who are representative watandars.

[3]**26.** In determining what heads of families shall be recognized as representative watandars and what is the custom of the watan as to service, the Collector shall inquire into and take into consideration the practice heretofore observed from the earliest period for which there are records or other evidence available: provided that he shall not be bound to recognize appointments or sub-divisions which have been made subsequently to the introduction of [4]Act No. XI of 1843, and which he considers to be contrary to the custom of the watan.

Registration of head of family as sole representative watandar.

[3]**27.** If it shall appear to the Collector that the custom has been for a member of one family only to serve, the Collector shall register the name of the head of such family only as the representative watandar and no other person.

Registration of heads of families as representative watandars.

[3]**28.** If it shall appear to the Collector that the custom has been for a member of each of several families to perform the duties either contemporaneously or for successive periods, the Collector shall register the name of the head of each of such families as representative watandars and no other persons, and where the practice of service and successive periods is proved to exist, he shall decide the order in which the representative watandars shall officiate.

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[1] The words "the Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] As to the local repeal of ss. 24 to 29 *see* the Matadars Act, 1887 (Bom. 6 of 1887), ss. 1 and 3.

[4] Act 11 of 1843 was repealed by s. 2 of this Act.

Registration of head of eldest family as sole representative watandar.

[1]29. (*1*) Where the practice of service in successive periods appears to have existed but is not proved to the satisfaction of the Collector to have existed at the date of the introduction of [2]Act No. XI of 1843, or when the practice of selection by the Collector from several families prevails, he shall determine who is the head of the eldest family descended from the original watandar and shall register his name as sole representative watandar.

Registration of heads of separate families as representative watandars.

(*2*) In cases where such several families are not descended from a common ancestor, the Collector shall register as representative watandars the heads of such families, and establish the practice of service in successive periods.

Registration as representative watandar of head of each family in amalgamated watan.

[3]30. When the practice of service in successive periods has been introduced under the British rule, in consequence of the reduction in the number of [4][officiators] or the amalgamation of watans by [5][the Provincial Government], the head of each family that formerly officiated shall be separately entered as a representative watandar.

Procedure if heads of families agree as to who are representative watndars.

[3]31. But if in any case described in section 29 [6]* * * the heads of families at any time before the completion of the register prescribed by this Act agree unanimously in writing, or have in writing agreed during the inquiry made in the preparation of the existing registers, as to who are the representative watandars, and as to the order of service, then the register prescribed in this Act shall be prepared in accordance with such agreement.

Right of service to remain after relinquishment of watan property.

32. When watan property or profits have been voluntarily relinquished without abandonment of right of service, such right of service shall be dealt with as if the watandars were still in receipt of such emoluments.

Notice of adoption if heir has been adopted prior to passing of Act

[3]33. In any case in which, before the coming of this Act into force, any registered representative watandar or his widow shall have adopted an heir, notice of the same shall, within twelve months from the coming into force of this Act, be given by or on behalf of such adopted heir to the Collector, who shall register the name of such heir accordingly. But if such adoption shall be shown to have been or shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

Notice of adoption when heir is adopted after passing of Act.

[3]34. In any case in which, after the coming of this Act into force, any registered representative watandar or his widow shall adopt an heir, report of such adoption shall within three months be made to the Collector by such watandar or by his widow, or in case of their death then by such adopted heir, or by the guardian of the latter, and the Collector shall register the name of such heir accordingly. But if such adoption shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

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[1] As to the local repeal of ss. 24 to 29, *see* the Matadars Act, 1887 (Bom. 6 of 1887), ss. 1 and 3.

[2] Act 11 of 1843 was repealed by s. 2 of this Act.

[3] As to the local modification or repeal of ss. 30 and 31, *see* Bom. 6 of 1887.

[4] This word was substituted for the word "sharers" by s. 6 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom. 5 of 1886).

[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[6] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886).

Procedure if notice of adoption is not duly given.

35. In any case in which [1][notice or] report of such adoption shall not be made as herein directed, the Collector shall not recognize the same without the production of a certificate of heirship, or of a final decree of a competent Court establishing the validity of such adoption.

Death of representative watandar to be reported; name of heir to be registered.

[2][[3]**36.** When any representative watandar dies it shall be the duty of the patel and village accountant to report the fact to the Collector; and the Collector shall, if satisfied of the truth of the report, and subject to the provisions of section 2 of Bombay Act V of 1886, register the name of the person appearing to be the nearest heir of such watandar as representative watandar in place of the watandar so deceased.

Provided that—

(*1*) in determining who is the nearest heir for the purposes of this section the rule of lineal primogeniture shall be presumed to prevail in the watan family;

(*2*) in any case where the deceased watandar was not a sole representative watandar, if his nearest heir is not a member of the branch of the family to which the deceased watandar belonged but is another representative watandar of the same watan or is a member of the branch of another representative watandar of the same watan, the share entered in the register against the name of the deceased watandar shall—

(*a*) if there is only one remaining representative watandar of the same watan who is descended from the same original watandar as the deceased, pass to that remaining representative watandar,

(*b*) if there are more than one such remaining representative watandars, be divided among such remaining representative watandars in proportion to their shares

and the register shall be corrected accordingly:

(*3*) [4][if any person shall by production of a decree] of a competent Court, satisfy the Collector that he is entitled to have his name registered as the nearest heir of such deceased watandar in preference to the person whose name the Collector has ordered to be registered, [5][at any time within six years of such order, the Collector shall] subject to the foregoing provisoes, cause the entry in the register to be amended accordingly.]

Guardian of minor watandar to perform duties of minor.

[6]**37.** When any head of a family or representative watandar is under the age of eighteen years his guardian may subject to the provisions of section 51 [7]* * * exercise all powers and perform all duties conferred and imposed by this Act.

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[1] These words were inserted by s. 7 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom. 5 of 1886).

[2] Section 36 was substituted by s. 2 (1) of the Bombay Hereditary Offices Act, 1910 (Bom. 3 of 1910).

[3] As to the local modification or repeal of ss. 33, 34 and 36, *see* Bom. 6 of 1887.

[4] The words "if any person shall by production of a decree" were substituted for the words "if at any time any person shall by production of a certificate of hardship, or of a decree or order" by Bom. 11 of 1930, s. 2.

[5] The words "at any time within six years of such order, the Collector shall" were substituted for the words "the Collector may", *ibid.*

[6] As to the local repeal of s. 37, *see* Bom. 6 of 1887.

[7] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886).

PART VII.

PERIODS OF SERVICE.

Representative watandars to serve for life or for fixed periods of five or ten years.

[1]**38.** Subject to the provisions of sections 45 and 46, representative watandars shall be entitled to office for the following periods, respectively (namely) :—

(*a*) in cases falling under section 28 or section 29, clause (*2*), or section 30 or section 31, in which the representative watandars are entitled to office contemporaneously, and in cases falling under section 27 or section 29, clause (*1*), } for life ;

(*b*) in cases falling under section 28 or section 29, clause (*2*), or section 30 or section 31, in which the representative watandars are entitled to office in successive periods. } for such period as the Collector shall in each case determine, the same being not less than five nor more than ten years.]

Procedure on death of officiator.

[2]**39.** In the event of the officiating watandar dying before the expiration of his fixed period of service, his heir shall, subject to the provisions of Part VIII [3]* * * be entitled to officiate for the remainder of that period.

Election officiator in rotation watan.

[2]**40.** (*1*) In the case of a watan in which the representative watandars are entitled to perform the duties in successive periods, the Collector shall, on the occurrence of the turn of any such representative watandar to perform the duties, issue a notice to the whole body of registered representative watandars calling upon them to appear before him at a certain time and place to elect an officiator, or such number of officiators as may be required by the Collector under the provisions of section 43 [3]* * * .

(*2*) If not less than three fourths, including the watandar whose turn it is to officiate, of the representative watandars appear at the appointed time and place and unanimously nominate a fit and proper person or persons, being a watandar or watandars of the same watan, the person or persons, so nominated shall be entitled to officiate in the place and for the period of service of the representative watandar whose turn it is to perform the duties.

(*3*) If the person or persons so nominated be other than the representative watandar whose turn it is to perform the duties, he or they shall for all the purposes of this Act be deemed to be the duly appointed deputy or deputies of the said representative watandar.

Mode of appointment if representative watandars fail to nominate officiator.

[2]**41.** If in the case of a watan in which the representative watandars are entitled to perform the duties in successive periods, the representative watandars shall not appear at the time and place appointed under the provisions of the last preceding section, or shall fail to nominate an officiator, or the requisite number of officiators, unanimously, then the provisions of this Act as to service by the representative watandar entitled to officiate and as to appointment of deputies shall apply.

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[1] Section 38 was substituted by s. 8 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom. 5 of 1886). As to the local repeal of s. 38, *see* Bom. 6 of 1887.

[2] As to the local repeal of ss. 39, 40, 41, 42 and 43, *see* Bom. 6 of 1887.

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886).

PART VIII.

OFFICIATING WATANDARS AND DEPUTIES.

Representative watandar to perform duties of office.

[1]**42.** Every representative watandar whose duty it is to officiate shall, if a fit and proper person perform the duties of the hereditary office himself on being so required by the Collector, but may be permitted by the Collector to appoint a deputy.

Collector to determine number of officiators required.

[1]**43.** The Collector shall determine the number of officiators required for the proper performance of the duties of any office from time to time, and for this requirement may call upon the representative watandar aforesaid to appoint a sufficient number of fit and proper persons as deputies, or may direct service in successive periods by representative watandars who have hitherto served or are serving contemporaneously.

44. [*Collector to appoint deputy if watandar fails.*] *Rep. Bom. III of 1910.*

Collector when to refuse service of representative watandar or of deputy nominated by him.

[2][3]**45.** The Collector shall refuse to accept the service of any representative watandar or of any person nominated by a representative watandar to be his deputy, if such representative watandar or person—

(*a*) is under eighteen years of age;

(*b*) has not passed such educational test, if any, as [4][the [5]State] Government] think fit from time to time to prescribe in this behalf;

(*c*) has attained sixty years of age, except when such person's appointment or continuance in office is specially permitted by the Collector;

(*d*) is in the opinion of the Collector disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body;

(*e*) has been adjudged by the Collector after a summary inquiry held in accordance with the provisions relating to summary inquiries contained in the [6]Bombay Land-Revenue Code, 1879, to be of general bad character; Bom. V of 1879.

[7][(*ee*) is considered by the Collector to be unfit for office on the ground that he is a wilful defaulter in respect of land revenue or any sum expressly declared by any law for the time being in force to be recoverable as an arrear of land revenue;]

(*f*) has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the [8][State Government] is hereby empowered to make, if [9][it] shall think fit, in this behalf;

(*g*) declines to forsake, whilst officiating, some other employment which is in the opinion of the Collector incompatible with the due discharge of the duties of the office;

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[1] As to the repeal of ss. 39, 40, 41, 42 and 43, *see* Bom. 6 of 1887.

[2] Section 45 was substituted by s. 9 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom 5 of 1886).

[3] As to local repeal of s. 45 *see* Bom 6 of 1887.

[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[5] This word was subtituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] *Infra.*

[7] Clause (*ee*) was inserted by s. 2 of the Bombay Hereditary Offices Act, 1910 (Bom. 3 of 1910).

[8] These words were substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

[9] This word was substituted for the word "he", *ibid.*

[1][(*h*) has been removed from office or declared to be ineligible for re-employment under section 58 unless his re-employment is expressly sanctioned by [2][the [3][State Government].]

[4][5]**46.** If an officiator at any time becomes unfit to officiate for any of the reasons specified in section 45, the Collector shall remove him from office and, subject to the other provisions of this Part, appoint another officiator. **Power to remove officiator or deputy of representative watandar who becomes unfit to officiate.**

A deputy appointed by a representative watandar may at any time be removed from office by the Collector at the request of the representative watandar, if, in the opinion of the Collector, there are good grounds for such requests.]

[4][5]**47.** If a representative watandar whose duty it is to officiate is rejected or removed under section 45 or 46, he may, subject to the provisions of section 49, appoint a deputy: **Procedure when representative watandar is rejected or removed.**

Provided that, whenever such representative watandar ceases to be disqualified under section 45, he shall become entitled, if otherwise fit, to serve in person in supersession of any such deputy, or to serve in person or (subject to the provisions of section 42) to appoint a deputy in supersession of any deputy appointed by the Collector.]

[4][5]**48.** If a deputy dies or resigns, or is rejected or removed by the Collector under section 45 or 46, the representative watandar whose duty it is to officiate may himself if otherwise fit, perform the duties in place of such deputy or, subject to the provisions of sections 42 and 49, appoint another deputy.] **Procedure when a deputy is rejected or ceases to officiate.**

[4][5]**49.** The Collector, instead of the representative watandar whose duty it is to officiate, shall himself appoint a deputy in any of the following cases :— **Cases where Collector, instead of the representative watandar, shall appoint a deputy.**

(*a*) where the representative watandar is disabled by lunacy or imbecility of mind from appointing a deputy ;

(*b*) where the representative watandar is disqualified under clause (*e*), (*f*) or (*h*) of section 45, whether or not he was a representative watandar at the time of his incurring such disqualification ;

(*c*) where the representative watandar fails to comply with any requisition of the Collector to serve in person or to appoint a deputy under section 42, 43, 47 or 48, within two months from the date thereof ;

(*d*) where the first person nominated by the representative watandar is rejected under section 45, and the second person nominated is also rejected under that section ;

(*e*) where the representative watandar declines to appoint a person as his deputy in accordance with section 53 ;

(*f*) where a deputy appointed by the Collector under any of the above clauses dies or resigns.]

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1 Clause (*h*) was inserted by s 2 of the Bombay Hereditary Offices Act, 1910 (Bom. 3 of 1910).
2 These words were substituted for the word "Government" by s. 2 and Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).
3 These words were substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
4 Sections 46, 47, 48 and 49 were substituted by s. 2 of the Bombay Hereditary Offices Act, 1910 (Bom. 3 of 1910).
5 As to local repeal of ss. 46 to 49, *see* Bom. 6 of 1887.

50. [*Collector may nominate deputy if representative watandar is rejected or removed.*] *Rep. Bom. III of 1910.*

Female cannot officiate but may nominate deputy.

[1]**51.** No female shall perform in person the duties of any hereditary office; but if a representative watandar or the guardian of a representative watandar, she may appoint a deputy.

Mamlatdar or Mahalkari to appoint deputy when officiator suspended.

[1]**52.** During the suspension of an officiating representative watandar or deputy and during any vacancy, the duties shall temporarily be performed by a substitute, whether a watandar or not, appointed by the [2][Mamlatdar or the Mahalkari, as the case may be].

Deputy must ordinarily be a member of the same family as the representative watandar whose duty it is to officiate.

[3][**53.** Except as is otherwise provided in the last preceding section and in section 56, and, except as the [4][[5]State] Government] shall by a general or special order from time to time otherwise direct, every deputy appointed under this Act shall be a member of the same family to which the representative watandar whose duty it is to officiate belongs, if there be a member of such family fit and willing to officiate [6][or, in default of such member, a watandar of the same watan who is fit and willing to officiate and who is descended from the same original watandar as the representative watandar whose duty it is to officiate.]

[7]* * * * * *

Term of appointment of deputy.

[1]**54.** When the Collector appoints a deputy, it shall be for a term not exceeding five years.

When a watandar entitled to officiate appoints a deputy, it shall be for a term not less than five years or for life. The term of appointment of a deputy shall cease and determine on the right of his principal ceasing, or on the death of his principal, and any appointment of a deputy on behalf of a representative watandar under the age of eighteen years shall terminate on the attainment by such representative watandar of that age.

Officiator if absent or ill may appoint a temporary substitute.

[1]**55.** In the event of temporary absence or illness, an officiator may arrange with any fit person for the temporary conduct of the duties, but shall be liable in the penalties prescribed in sections 57 to 61 [8]* * *

Head of family when to be treated as watandar.

[9]**56.** When the hereditary right to perform the duties of an hereditary office as deputies of the original watandar is vested in a family distinct from that of the original watandar, the custom shall be recognized, and the heads of the family entitled to perform the duties shall be registered and treated as representative watandars.

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[1] As to local repeal of ss. 51 to 55, *see* Bom. 6 of 1887.

[2] These words were substituted for the word "Collector" by s. 2 and Sch. I of the [Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

[3] Section 53 was substituted by s. 12 of the Bombay Hereditary Offices (Amendment) Act 1886 (Bom. 5 of 1886).

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] These words were added by s. 2 of the Bombay Hereditary Offices Act, 1910 (Bom. 3 of 1910).

[7] The following paragraph was repealed by Bom. 3 of 1910, s. 3 :—

"If a representative watandar declines to appoint as his deputy any such person as aforesaid, the appointments shall be made by the Collector."

[8] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886).

[9] As to the local repeal of ss. 56 to 58 *see* Bom. 6 of 1887.

PART IX.

PENALTIES.

Punishment of officiators.

[1]**57.** It shall be lawful for the Collector to suspend any officiator from office during inquiry into alleged misconduct, and to punish any such officiator for misconduct or neglect of duty by suspension from office for a period not exceeding six months, or by fine not exceeding the fourth part of the annual emolument provided for the officiator. The order of the Collector shall be final in such cases, except when the penalty is inflicted on an hereditary district officer.

Collector may remove officiator with the sanction of Provincial Government.

[1]**58.** It shall be lawful for the Collector, with the previous sanction of [2][the Provincial Government], in case of fraud, the wilful framing of incorrect records, habitual neglect of duty, or other grave misconduct on the part of an officiator, to remove him from office [3][or, if he has ceased to officiate, to declare that he is ineligible for re-emloyment in any hereditary office except with the sanction of [2][the Provincial Government]].

59. [*Officiator removed from office ineligible for re-employment.*] *Rep. Bom. III of 1910.*

Provincial Government may direct the forfeiture of a watan.

[4][**60.** When any representative watandar or any deputy or substitute appointed by him is convicted by a criminal Court not inferior to a Court of Session of any offence in the discharge of his official duties, or of any of the offences specified in the second schedule or of the abetment of any such offence, and such conviction is not subsequently reversed or quashed, the [5][Provincial Government] may, [6]* * *

[6][(*a*) if the offence be committed in the discharge of his official duties or be any of those enumerated in Schedule II (2) to (6), direct the forfeiture of the life interest of the person convicted or if he be not the representative watandar also of the representative watandar;

(*b*) if the offence is as is described in Chapter VI of the Indian Penal Code, direct the forfeiture of the whole or of any part of any watan in which he has an interest. Such forfeiture may be either absolute or for such period as the [5][Provincial Government] thinks fit.]

Forfeiture of life interest of officiator and deputy for misconduct of deputy.

[7]**61.** All deputies appointed under this Act shall be subject to the same rules in the performance of the duties of their offices, and to the same penalties, except as otherwise provided, as the representative watandars themselves are subject to when officiating, and in the case specified in section 58 of this Act, it shall be lawful for [2][the Provincial Government] to direct the forfeiture of the life interest in the watan of the repesentative watandar entitled to officiate, whether the officiator guilty of misconduct be such representative watandar himself or a deputy appointed by him:

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[1] As to the local repeal of ss. 56 to 58 *see* Bom. 6 of 1887.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] These words were added by s. 2 of the Bombay Hereditary Offices Act, 1910 (Bom. 3 of 1910).

[4] Section 60 was substituted by s. 13 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom. 5 of 1886). As to the local modification of s. 60, *see* Bom. 6 of 1887.

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[6] The words "direct the forfeiture of the whole or of any part of any watan in which he has an interest. Such forfeiture may be either absolute or for such period as the Governor in Council thinks fit" were deleted and Clauses (*a*) and (*b*) were inserted by Bom. 11 of 1925, s. 2.

[7] As to the local repeal of ss. 61 and 62 *see* Bom. 6 of 1887.

[1][Provided that the [2][Provincial Government] shall not direct under this or the preceding section the forfeiture of any watan or part thereof belonging to a person other than the one so convicted or found guilty, unless it is proved to [3][its] satisfaction that that person had previous knowledge of or connived at the offence or misconduct.]

Order to be passed after investigation.

[4]**62.** No order shall be passed under this part except upon perusal of the judgment of a Court [5][if any and after investigation recorded in writing in which an opportunity of being heard either in person or through pleader shall be given to the party against whom any such order is proposed to be passed.]

PART X.

INFERIOR VILLAGE HEREDITARY OFFICES.

Application of Part X.

63. This part applies only to hereditary village offices of lower degree than that of Patel or Kulkarni.

Powers granted to Collector.

64. [6][(*1*)] The Collector is empowered, subject to the general control of [7][the Provincial Government]—

(*a*) to register the names of individual watandars as holders of the office, or to register it as held by the whole body of watandars;

(*b*) to determine, when individual names are so registered, the rights, duties and responsibilities among themselves of the persons so registered, and the mode in which they shall be selected to perform the duties, whether by selection by the Collector or by defined rotation, or by election by the watandars or otherwise, as may be expedient;

(*c*) to require, in cases where the registration is made in the name of the whole body of watandars, that they appoint so many fit persons as may be necessary to perform the duties which the Collector may assign to them severally and jointly; such appointment to be made within a reasonable time to be previously fixed and notified to them by the Collector. In default of such appointment being made, the Collector may himself appoint;

(*d*) to provide for and enforce the joint responsibility of the whole body for the neglect of duty or misconduct of any of their number or their representatives and in cases where the crime of cattle poisoning is prevalent, with the sanction of [7][the Provincial Government] to attach, during the pleasure of [7][the Provincial Government], the watans of the persons whom he may have reason to believe to have been guilty of, or to have connived at, the commission of the crime;

[8][(*e*) to pass orders in regard to the dismissal of persons officiating;]

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[1] The proviso to section 61 was inserted by Bom. 11 of 1925, s. 3.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The word "its" was substituted for the word "his", *ibid.*

[4] As to ocal repeal of ss 61 and 62 *see* Bom. 6 of 1887.

[5] These words were substituted for the words "or after investigation recorded in writing" by Bom. 11 of 1925, s. 4.

[6] Section 64 was renumbered as s. 64 (1) by s. 2 and Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

[7] The words "the Provincial Government" were substituted for the word "Government" by the, Adaptation of Indian Laws Order in Council.

[8] Clause (*e*) was substituted by s. 2 and Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

[1][(*f*) to permit the watandar whose duty it is to officiate, to appoint a deputy for performing the duties of his office.]

The Collector to amend entry on register.

[2][(*2*) The Collector, when he is satisfied that a person who produces a decree or order of a competent court is entitled to have his name entered in the register as nearest heir of a deceased watandar in preference to the name of a person already entered in the said register as such heir, provided that the said order or decree is produced within six years of the date of the entry in the said register sought to be amended, shall amend the said entry in the said register accordingly.

The Collector may delegate certain powers to Mamlatdars and Mahalkaris.

[2](*3*) The Collector is empowered to delegate to the Mamlatdar or Mahalkari the powers exercisable by him under clause (*a*) of sub-section (*1*)].

Powers granted to Mamlatdar and Mahalkari.

[3][(*4*) The Mamlatdar and the Mahalkari are empowered to pass orders in regard to the appointment, remuneration, period of service, suspension and fining of persons officiating, the grant of leave of absence and other matters of discipline not expressly provided for by this or any other law for the time being in force.]

PART XI.

THE REGISTER.

Collector to prepare and keep Register.

65. The Collector shall prepare and keep all Registers necessary for the purposes of this Act in the form which [4][the [5][State] Government] may from time to time prescribe. There shall be one Register of lands and allowances in consideration whereof liability to perform service exists and another of lands and allowances in respect of which no such liability exists.

Non-Service Register what to contain.

66. In the Register of lands and allowances the holders whereof are exempt from service, the Collector shall specify—

(*a*) the area of the lands, the survey number and assessment, the quit-rent leviable, and the net revenue alienated by [6][the [7][Government]];

(*b*) the amount and nature of the cash or other allowances, and the source from which they are payable;

(*c*) the terms of the settlement under which the exemption is enjoyed;

(*d*) the names of the parties to such settlement with [6][the [7][Government]] as indicated in the Sanads issued to them;

(*e*) such other particulars as [4][the [5][State] Government] may from time to time order to be recorded.

Service Register what to contain.

[8] **67.** In the Register of lands and allowances in consideration whereof liability to serve still exists, the Collector shall specify—

(*a*) the area of the lands, the names of the occupants, the survey number and assessment, the quit-rent, if any, leviable, and the net revenue alienated by the [7][Government], the amount and nature of the cash or other allowances, the

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[1] Clause (*f*) was inserted by Bom. 15 of 1931, s. 2.
[2] Sub-sections (*2*) and (*3*) were inserted by Bom. 12 of 1932, s. 2.
[3] Sub-section (*2*) which was added by s. 2 and Sch. I of Bom. 3 of 1915 was renumered as sub-section (*4*), *ibid.*
[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[7] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[8] As to the local repeal of s. 67, *see* Bom. 6 of 1887.

source from which they are payable, and the land and allowances assigned for the remuneration of officiators;

(*b*) the names of the heads of families and of the representative watandars;

(*c*) whether the service is performed by one representative watandar or otherwise: if by several in successive periods, the order in which they are to succeed each other;

(*d*) the proportional share of the watan possessed by each head of family which may be expressed in annas or fractions of a rupee;

(*e*) the number of officiators required to perform the duties;

(*f*) the nature of the settlement of inferior village watans referred to in Part X [1]* * *;

(*g*) such other particulars as [2][the [3][State] Government] may (from time to time) order to be recorded.

Register to be corrected.

68. The Register kept under this Act shall be corrected or added to on the occasion of any change being made in accordance with the provisions of this Act in the particulars above specified.

PART XII.

MISCELLANEOUS.

Service to be performed by watandars.

[4]**69.** All watandars of whatever denomination whose liability to serve has not been commuted are legally bound, subject to the provisions of this Act, to render such service as has been customary or as is required by law.

Watan records the property of the [5][Government.

[5][**70.** All records which have been or may be prepared by any watandar or by any officiator in an hereditary office in pursuance of the duties of the office, or by order of a superior officer or of the present or former Government, are hereby declared to be the [6][property of the [7][State Government]], and the [8][Mamlatdar or the Mahalkari] may enforce their production or the production of any State records in the possession of a watandar or of an officiator, in accordance with the provisions of sections 25 and 26 of the Bombay Land Revenue Code, 1879.]

Bom. V of 1879.

Watandars may sign village records.

71. With regard to hereditary offices not inferior to that of Patel or Kulkarni it is hereby declared that every head of family shall have the privilege of signing the abstract of village land and revenues or other village papers which it may be customary for him to sign.

PART XIII.

PROCEDURE AND APPEALS.

Evidence to be taken.

72. (*1*) It shall be lawful for the Collector or other officer conducting an investigation under this Act to take evidence, and in sections 193 and 228 of the [10]Indian Penal Code the words "judicial proceeding" shall be taken to include any proceeding under this Act.

XLV of 1860.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Sch. B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] As to the local repeal of ss. 69 and 71, *see* Bom. 6 of 1887.

[5] Section 70 was substituted by s. 14 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom. 5 of 1886).

[6] The words "property of the Crown for the purposes of the Province" were substituted for the words "property of Government" by the Adaptation of Indian Laws Order in Council.

[7] These words were substituted for the words "the Crown for the purposes of the Province" by the Adaptation of Laws Order, 1950

[8] These words were substituted for the word "Collector" by s. 2 and Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

[9] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[10] Central Acts.

(2) Every person who shall have been summoned to give evidence or to produce any document in his possession, by the Collector or other officer conducting an investigation under this Act, shall be legally bound to attend, or to produce such document.

Orders under Parts III, V, VI and VII to be passed after investigation in writing.

[1]73. (1) Except as hereinafter provided in clause 2 of this section, no order under Part III [2] * * * directing commutation of a watan, or under Part V [2]* * * assigning the remuneration of officiators, or under Part VI [2]* * * determining the custom of the watan as to service and what persons should be registered as heads of families or representative watandars, or under Part VII [2]* * * determining the periods of service, shall be passed, unless after an investigation recorded in writing and a proper opportunity afforded for the hearing of claims and the production of evidence.

In each such investigation, and in removals from office under section 58 [2]* * * the Collector or other officer shall record his decision with the reasons therefor in his own handwriting.

Certain decisions passed since 1866 to be accepted in lieu of fresh investigation.

(2) Unless the [3][[4][State] Government] shall otherwise direct, decisions passed subsequently to the year 1866 after an investigation recorded in writing, and after a proper opportunity had been afforded for the hearing of claims and the production of evidence, and which are recorded, with the reasons therefor, in the handwriting of a Collector or his Assistant or Deputy, shall be accepted, in so far as they may not be inconsistent with the provisions [5][of this Act] in lieu of fresh investigation and decision under this Act for the purpose of framing the register required in section 67 [6]* * *. If any details necessary for the said register have not been recorded in any decision of the nature described above, but are forthcoming from the evidence taken in connection with such decision, they may be supplied from such evidence in lieu of fresh investigation for the completion of the register. Such details as may not be forthcoming shall be obtained by such further investigation as the Collector may deem necessary.

Control of proceedings of Collector.

74. The proceedings of the Collector shall be under the general control of [7]* * * * [8][the [4][State] Government].

Mamlatdar may make investigation under Part X.

75. The Collector may [9][save in respect of any matter in which he has delegated his powers to a Mamlatdar or Mahalkari under sub-section (2) of section 64], require any investigation under Part X [2]* * * * to be made by a Mamlatdar or Mahalkari, but the decision thereon shall be made by the Collector.

No appeal to lie save where specially provided.

76. No appeal shall lie from any order made under section 64, clause (e) [2]* * * before final order nor from any order registering any fact specified under section 67, clauses (b), (c), (d) and (e) [2]* * * where the effect of such order is merely to register the same facts as are already recorded in the existing registers kept according to law or under the orders of [8][the [4][State] Government].

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[1] As to local repeal of part of s. 73, *see* Bom. 6 of 1887.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Sch. B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] These words were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), and re-inserted by the Amending Act, 1895 (16 of 1895).

[6] The word "thereof" was repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[7] The words "the Commissioner and of" were deleted by Bom. 28 of 1950, Sch.

[8] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[9] These words were inserted by Bom. 12 of 1932, s. 3.

Appeals.

77. Except as hereinbefore provided, one appeal only shall lie from every decision passed after investigation recorded in writing by a Collector, or by an Assistant Collector, or Deputy Collector [1][or from every decision passed by a Mamlatdar or Mahalkari exercising the powers delegated to him under sub-section (*2*) of section 64] [2]* * *

Such appeal, if from the decision of an Assistant Collector, or Deputy Collector [1][or Mamlatdar, or Mahalkari] [2]* * * shall lie to the Collector and shall be made within sixty days from the date of the order appealed against.

Such appeal, if from the decision of the Collector, shall lie to the [3]* * * [4][State Government], and shall be made within ninety days from the date of the order appealed against.

In computing the above periods the time required to prepare a copy of the order or decision appealed against shall be excluded.

Copy of order to accompany petition of appeal. Appeal may be summarily rejected.

78. Every petition of appeal shall be accompanied by a copy of the order or decision appealed against: and it shall be competent for the officer before whom the appeal is presented to reject the appeal if on perusal of the petition it appears to him that there is no sufficient ground for questioning the correctness of the decision, or for interfering with the order appealed against.

State] Government may call for proceedings.

79. [5][The [6][State] Government] may call for and examine the record of the proceedings of any officer for the purpose of satisfying itself as to the legality or propriety of any order passed, and may reverse or modify the order as shall seem fit, or, if it seem necessary, may order a new inquiry.

[7][* * * * * * * *]

Notice how to be served

80. Service of any notice given under this Act shall be deemed to have been made by the notice being affixed in writing to the wall of the village chavdi or other public place in the village not less than seven days before action is required to be taken by any person thereon.

Recoveries how to be made.

81. All recoveries of profits from land, assessments, emoluments or penalties under this Act, may be made as provided by any law for the time being in force relating to the recovery of the land-revenue.

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[1] These words were inserted by Bom. 12 of 1932, s. 4.

[2] The words and figures "empowered under the provisions of Bombay Act I of 1868" and the words "so empowered" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Sch. B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[3] The word "Revenue" was repealed by the Amending Act, 1895 (16 of 1895).

[4] These words were substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[7] The paragraph beginning with the words "The Provincial Government may delegate" and ending with the words "to impose" was deleted by Bom. 28 of 1950, Sch.

82. [1][The [2][State] Government] may frame rules not inconsistent with this Act for the guidance of its officers in cases not expressly provided for, and may from time to time modify or revoke any such rules. [2][State] Government to frame rules.

83. Except as is otherwise provided in section 18 [3]* * * [1][the [2][State] Government] shall have power, in cases where doubt exists, to determine what duties appertain to any hereditary office. [2][State] Government to determine duties of hereditary officers.

84. The [4][[2][State] Government] may from time to time confer on any officer specially selected for the purpose [5][or, so far as concerns any alienated village, on the holder or on any of the holders of such village or on any agent of the holder of such village] all or any of the powers and duties which under this Act are required to be performed by [6]* * * a Collector, and may authorize the delegation to any Mamlatdar or Mahalkari of the power to fine hereditary village officers in sums not exceeding two rupees. Grant of powers to Special Officer.

[7][Powers and duties conferred under this section shall be exercised or performed subject to such conditions, if any, in addition to those specified in this Act, as the [4][[2][State] Government] shall from time to time think fit to prescribe, and any order conferring powers and duties under this section may at any time be cancelled by the [4][[2][State] Government].]

85. Nothing in this Act contained shall be deemed to affect [8]Bombay Act VIII of 1867 or any other law for the time being in force, defining the duties, and powers of village officers or imposing penalties for misconduct and all references in such laws to [9]Act XI of 1843 shall be taken as made to this Act. Act not to affect Bombay Act VIII of 1867.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] These words were inserted by s. 15(*1*) of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom. 5 of 1886).

[6] The words "a Commissioner or" were deleted by Bom. 28 of 1950, Sch.

[7] This paragraph was added by s. 15(*2*) of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom. 5 of 1886).

[8] The Bombay Village Police Act, 1867.

[9] Act 11 of 1843 was repealed by s. 2 of this Act.

SCHEDULE.

[*Enactments repealed.*] *Rep. Act XII of 1876.*

SECOND SCHEDULE.[1]

Offences referred to in section 60.

Description of offence.	Sections of the Penal Code under which punishable.
(1) Every offence described in Chapter VI of the [2]Indian Penal Code.	121, 121A, 122—124, 124A, 125—130. XLV of 1860.
(2) Causing disappearance of evidence of any offence committed, or giving false information touching it to screen the offender, when the offence committed is a capital offence, or punishable with transportation for life or imprisonment for ten years.	201
(3) Harbouring an offender, if such offender's offence be capital, or punishable with transportation or imprisonment for ten years.	212
(4) Taking gift, etc., to screen an offender from punishment, if such offender's offence be capital, or punishable with transportation for life or with imprisonment for ten years.	213
(5) Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if such offender's offence be capital or punishable with transportation for life or with imprisonment for ten years.	216
[3](6) Harbouring robbers and dacoits ...	216A

[1] This schedule was added by s. 16 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bom. 5 of 1886).

[2] Central Acts.

[3] This entry was added by s. 2 (*11*) of the Bombay Hereditary Offices Act, 1910 (Bom. 3 of 1910).